

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DAVID BECKER

9570 Zion Ridge Rd

Chesterhill, 43728

Plaintiff,

Vs.

PAMELA BONDI, in her official capacity as

Attorney General of the United States

950 Pennsylvania Avenue, N.W.

Washington, D.C. 20530

and

**THE BUREAU OF ALCOHOL, TOBACCO,
FIREARMS AND EXPLOSIVES.**

99 New York Avenue, N.E.

Washington, D.C. 20226

and

**THE FEDERAL BUREAU OF
INVESTIGATION,**

935 Pennsylvania Avenue, N.W.

Washington, D.C. 20530

Defendants.

Case No.

COMPLAINT

Now comes Plaintiff David Becker, by and through undersigned counsel, and for his Complaint against the Defendants states as follows:

INTRODUCTION

This action seeks to restore the firearm rights of Plaintiff, Mr. David Becker, a former United States Navy SEAL whose only criminal history in his lifetime consists of a single non-violent conviction for Theft of Government Property over a decade ago, involving military

equipment valued at \$1,525. Outside of this offense, Mr. Becker has no other convictions or arrests. As a non-violent and non-dangerous individual, his lifetime federal ban on possessing firearms is an affront to the Second Amendment.

PARTIES

1. Plaintiff David Becker (“Mr. Becker”) is a natural person, citizen of the United States, and resident of Morgan County, Ohio.
2. Defendant Pamela Bondi, in her official capacity as Attorney General, is the Attorney General of the United States. As the Attorney General, Defendant Bondi is responsible for enforcing the laws, customs, practices, and policies that form the basis of this action.
3. Defendant the Federal Bureau of Investigation (“FBI”) is an “agency” of the United States of America, and is also presently enforcing the laws, customs, practices, and policies that form the basis of this action. The FBI specifically administers the National Instant Criminal Background Check System which is the system utilized to determine if a potential firearm purchaser is lawfully permitted to possess a firearm.
4. Defendant the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) is an “agency” of the United States of America, and is also presently enforcing the laws, customs, practices, and policies that form the basis of this action. The ATF is responsible for issuing ATF Form 4473 which must be completed prior to a federal firearm licensee transferring a firearm to a non-licensee individual and is used to verify the purchaser is lawfully permitted to possess a firearm.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343, 1346, 2201, and 2202.

6. Venue for this action is properly in this Court pursuant to 28 U.S.C. § 1391 as Plaintiff resides in this judicial district.

STATEMENT OF FACTS

7. Mr. Becker is a business owner and loving husband who resides in Chesterhill Ohio.
8. Mr. Becker served in the United States Navy from 2009 to 2014.
9. Mr. Becker was a Navy SEAL and member of SEAL Team 8 from 2012-2014.
10. Mr. Becker was convicted of Theft of Government Property in violation of 18 U.S.C. § 641 on or about July 18, 2014 in case number 2:13CR00175 in the United States District Court for the Eastern District of Virginia.
11. The offense occurred on or between November 20, 2013 and November 25, 2013 involving property valued at \$1,525.
12. All stolen items were taken from a portable dumpster operated by the Defense Reutilization Marketing Office.
13. No violence was used in the commission of the offense nor was there any inherent risk of violence.
14. Mr. Becker accepted responsibility for the offense and pled guilty.
15. Mr. Becker was sentenced to serve 16 months of imprisonment followed by 3 years of supervised release and to pay a special assessment of \$100.00 and restitution of \$1,525.00.
16. Mr. Becker has fully completed his sentence.
17. Since his release from prison, Mr. Becker has lived an exemplary life.
18. Mr. Becker has launched multiple successful businesses and currently manages a large investment portfolio of real estate and other assets valued in excess of 18 million dollars.

19. Other than case number 2:13CR00175, Mr. Becker has no other convictions, charges, or arrests in his lifetime.
20. Mr. Becker has never committed an unlawful act of violence.
21. Mr. Becker is not a violent or dangerous individual.
22. Mr. Becker's military training included extensive training in the safe use of firearms and how to maintain safety in times of extreme stress.
23. Mr. Becker was previously an NRA-certified Range Safety Officer, pistol instructor, and rifle instructor. He taught courses on topics including but not limited to, firearm safety, care, maintenance, and home defense.
24. Mr. Becker is permitted to possess firearms under Ohio law as his conviction was neither violent nor drug related. R.C. § 2923.13.
25. None of the prohibiting factors listed in 18 § U.S.C. 922(g)(2)-(9) apply to Mr. Becker.

Regulatory Scheme

26. 18 U.S.C. 922 (g)(1) provides that any person convicted of a "crime punishable by imprisonment for a term exceeding one year" may not possess firearms. Violation of this law is a felony offense punishable by up to 10 years of imprisonment. 18 U.S.C. § 942(a)(2).
27. 18 U.S.C § 922(d)(1) prohibits anyone from transferring a firearm to anyone whom the transferor has reason to know was convicted of "a crime punishable by imprisonment for a term exceeding one year." Violation of this provision is a felony offense punishable by fine and imprisonment of up to ten years. 18 U.S.C. § 924(a)(2).
28. All firearms purchasers within the United States who do not possess a federal firearms license and who are seeking to purchase a firearm from someone with a federal firearms

license must complete ATF Form 4473 administered under Defendants' authority, in order to purchase a firearm. 27 C.F.R. § 478.124.

29. Question 21.d on ATF Form 4473 asks:

Have you ever been convicted in any court, including a military court, of a **felony**, or any other crime for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation?

30. Defendants instruct federal firearm licensees not to transfer firearms to anyone who answers "yes" to this question and to refrain from even conducting a background check on anyone who answers "yes" to this question.

31. Mr. Becker's conviction for Theft of Government Property qualifies under 18 U.S.C. § 921(a)(20) as a "crime punishable for imprisonment for a term exceeding one year."

32. Mr. Becker is prohibited by Defendants from possessing a firearm based on Defendants' enforcement of 18 U.S.C. 922(g)(1).

33. Mr. Becker must answer "yes" that he has been convicted of a crime punishable by imprisonment for a term exceeding one year on ATF Form 4473, meaning a federal firearm licensee is prohibited from transferring a firearm to him.

34. As a lifelong firearms enthusiast, Mr. Becker refrains from possessing a firearm only because he reasonably fears investigation, arrest, prosecution, and incarceration directed by Defendants.

COUNT ONE
AS APPLIED CLAIM FOR RELIEF
UNITED STATES CONSTITUTION, SECOND AMENDMENT

35. The allegations of paragraphs 7 through 34 are incorporated as though fully set forth herein.

36. Mr. Becker has a right to make an individualized as applied challenge to the application of 18 U.S.C. § 922(g)(1) to him. *United States v. Williams*, 113 F.4th 637, 663 (6th Cir. 2024).
37. Disarming Mr. Becker does not comport with our Nation's historical tradition of firearm regulation.
38. Mr. Becker has demonstrated himself to be a responsible and law-abiding citizen.
39. Mr. Becker is not likely to act in a manner dangerous to public safety or contrary to the public interest.
40. Mr. Becker's conviction is case number 2:13CR00175 did not involve violence or a threat of violence/physical danger.
41. Mr. Becker wishes to possess a firearm in his home for purposes of self-defense.
42. Mr. Becker has an extensive understanding of how to safely use a firearm.
43. Mr. Becker has no history of violent behavior or any other conduct that would indicate he is more likely to pose a danger by possessing firearms than the average law-abiding citizen. In fact, given Mr. Becker's extensive training as a Navy SEAL, Mr. Becker is far less likely to pose a danger with firearms than the average citizen.
44. Applying 18 U.S.C. § 922(g)(1) to Mr. Becker is an unconstitutional violation of his Second Amendment right to possess a firearm.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court will enter judgment as follows:

- A. A declaration that 18 U.S.C. § 922(g)(1) is an unconstitutional violation of the Second Amendment as applied to Plaintiff relating to his conviction in case number 2:13CR00175;

- B. An order permanently enjoining Defendants, their officers, agents, employees, and all persons in active concert or participation with them who receive actual notice of the injunction, from enforcing 18 U.S.C. § 922(g)(1) against Plaintiff on the basis of his conviction in case number 2:13CR00175;
- C. An order directing Defendants to issue Plaintiff a Unique Personal Identification Number.
- D. A declaration that Plaintiff's conviction in case number 2:13CR00175 does not require him to acknowledge a disabling conviction when purchasing firearm from the holder of a federal firearms license and completing ATF Form 4473 (as may be amended from time to time);
- E. Attorney Fees and Costs pursuant to 28 U.S.C. § 2412; and
- F. Any other further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Michael Truman
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